

BOARD OF ZONING APPEALS MEETING

TIPP CITY, MIAMI COUNTY, OHIO

August 19, 2009

Meeting	Chairman Poff called this meeting of the Tipp City Board of Zoning Appeals to order at 7:30 p.m.
Roll Call	Roll call showed the following Board Members present: Ron Poff, David Berrett, Stacy Wall, and John Borchers. Others in attendance: Asst. City Manager/Community & Economic Development Director Bradley C. Vath, Matt Conover – City Intern, and Marilyn Fennell for Board Secretary Kimberly Patterson.
Absence	Mr. Borchers moved to excuse Ms. Katelyn Black , seconded by Chairman Poff. Motion carried. Ayes: Borchers, Poff, Berrett, and Wall. Nays: None. Citizens attending the meeting: Hayden Warner, Edmund Jackson, Tom Cline, and Mike Jackson.
Board Minutes 7/15/09	Chairman Poff asked for discussion. There being none, Mr. Berrett moved to approve the July 15, 2009, meeting minutes as written , seconded by Chairman Poff. Motion carried. Ayes: Berrett, Poff, Borchers, and Wall. Nays: None.
Chairman's Introduction	Chairman Poff explained the guidelines and procedures for the meeting and public hearings. He advised the applicants that a decision of the Board could be appealed to City Council within 10 days. If the Board granted the applicant's request, the applicant may file the appropriate permits after the 10-day waiting period has expired.
Citizen Comments	There were none.
Administration of Oath	Mrs. Fennell swore in citizens wishing to speak, Mr. Conover and Mr. Vath.
New Business Case No. 04-09 Hayden Warner Two Variance Requests	New Business A. Case NO. 04-09: Hayden Warner - 23 S. Fourth Street, Tipp City - Lot: Pt. IL 119 – The applicant requests the following variances: <u>Variance 1</u> A variance of 6" to §154.059(D)(14)(e)(1) which requires a

maximum height of 3' 6" for fences in front yards of residentially zoned districts.

Variance 2

A variance of 2' 6" to the required side setback of 3' noted in Code §154.059(D)(14)(f)(1) which requires all fences in residentially zoned districts to be setback a minimum of 3' from front yard lot line or street side yard lot line.

Present Zoning District: R-2 – Urban Residential Zoning District

Zoning Code Section(s): §154.059(D)(14)(e)(1) and §154.059(D)(14)(f)(1)

Mr. Vath stated that the applicant requested two (2) variances in conjunction with the proposed installation of a wooden picket fence at 23 S. Fourth Street as follows:

1. A variance of 6" to §154.059(D)(14)(e)(1) which requires a maximum height of 3' 6" for fences in front yards of residentially zoned districts. If approved, the fence would be 4' tall rather than the required 3' 6".
2. A variance of 2' 6" to the required side setback of 3' noted in Code §154.059(D)(14)(f)(1) which requires all fences in residentially zoned districts to be setback a minimum of 3' from front yard lot line or street side yard lot line. If approved, the fence would be 6" from the front property line, rather than the required 3'.

Mr. Vath noted that the first variance request was regarding a 6" height variance. Applicant requested a 4' tall fence be placed in the front yard which would be connected to an existing chain link fence which runs along the alley.

Mr. Vath also noted that the second variance was to the standard that it requires a 3' side yard setback and they were proposing to have a 2' 6" side yard setback to the chain link fence in the side yard.

Mr. Vath stated that procedurally he would note that the Board of Zoning Appeals does have jurisdiction to grant the variances in this case in accordance with code section §154.175(E)(9). The second variance the Board of Zoning Appeals has jurisdiction to the code section §154.175(E)(1). Staff would note that with any variances granted there are certain procedural requirements that are outlined in code section §154.175(C). Staff would also note that code section §154.175(D) requires that the Board make a written finding for the reasons set forth in the application to

justify the granting of a variance and that the variance is the minimum variance that is possible with the reasonable use of the property when a variance is denied a written statement would be set forth thereto.

Mr. Vath mentioned some additional comments regarding the variances: At this point in time no professional surveyor has been obtained by the property owner to find the exact location of both pins, although one front yard pin has been found by the property owner; As noted if approved, the applicant would be required to obtain an approved Zoning Compliance Permit prior to the installation of the new fence after the ten day waiting period.

Mr. Hayden Warner, 23 S. Fourth Street approached the dais.

Chairman Poff asked the applicant his reasoning for wanting to place the fence one foot behind the sidewalk. Mr. Warner stated that he only had a front yard and did not have any back yard and would like to retain as much actual yard as possible. Landscaping would be done on the remaining one foot to the sidewalk

Chairman Poff asked about the existing fence. Mr. Warner stated that there was an existing 48" chain link fence running down the alley and also a hedge row on the south side of the property. The proposed fencing would be connected to contain the applicant's two year old.

Chairman Poff asked if the applicant was making the fence himself. Mr. Warner stated no and that the fence was a prefabricated panel that was 4' tall.

Mrs. Wall asked how much traffic was around the property and was concerned with constricting the view. Mr. Warner stated that the constriction of view should be minimal if any when looking down the south side of Fourth Street and that the alley was primarily used for the two residential homes behind him on Dow Street and the business actually used the two entrances to the parking lot.

Neighbor's comments received: Mrs. Gay who lives next door to the south called and she had no objection to the requests.

Chairman Poff asked for further discussion. Mr. Berrett **moved to grant a variance of 6" to §154.059(D)(14)(e)(1) which requires a maximum height of 3' 6" for fences in front yards of residentially zoned districts**, seconded by Mr. Borchers. **Motion carried.** Ayes:

**Case No. 05-09
Edmund
Jackson
Two Variance
Requests**

Berrett, Borchers, Wall, and Poff. Nays: None.

Mr. Berrett moved to grant a variance of 2' 6" to the required side setback of 3' noted in Code §154.059(D)(14)(f)(1) which requires all fences in residentially zoned districts to be setback a minimum of 3' from front yard lot line or street side yard lot line, seconded by Mrs. Wall. **Motion carried.** Ayes: Berrett, Wall, Poff, and Borchers. Nays: None.

Case No. 05-09: Tom Cline – Buschurs Home Improvement for Edmund Jackson, owner - 655 Thornburg Place, Tipp City - Lot: Inlot 2322 – The applicant requests the following variances:

Variance 1

A variance of 14' to the required rear yard setback of 30' noted in Code §154.045(C)(2)(b)(1).

Variance 2

A variance of 2' 5" to the required setback of 10' noted in Code §154.059(D)(4) regarding setbacks between detached an accessory building and the primary dwelling.

Present Zoning District: R-3 – Urban Residential Zoning District

Zoning Code Section(s): §154.045(C)(2)(b)(1)

Mr. Conover stated that the first variance was of 14' to the required rear yard setback of 30' and the second request was a variance of 2' 5" to the required setback of 10'. Variance 1 references Code §154.045(C)(2)(b)(1) which sets the minimal yard depth to 30 feet. Variance 2 references Code §154.059(D)(4) states that detached accessory building shall be at least 10 feet from any dwelling situated on the same lot.

Mr. Conover reviewed the procedural requirements of the Board such as §154.175(E)(1), §154.175(C), §154.175(D) which states that the Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefore.

Mr. Conover reviewed the additional notes regarding this case as follows:

- The proposed patio enclosure would be 10' x 9' (90 sq. ft.)
- If the requested variances are granted, the applicant would be required to obtain the required Zoning Compliance Permit and pay the associated fee of \$40. In

Copy

addition, the applicant would also be required to obtain the corresponding building permits, which are issued by the Miami County Building Regulations Department.

- There are existing 5' utility easements that run along the side (south) and rear (west) property lines. The proposed patio enclosure will not encroach into either of these easements.
- Although Code required a minimum 30' rear yard setback, the Thornburg Place Subdivision was originally approved requiring only 25' rear yard setbacks. The recorded rear yard setback for the subdivision does not change the requested rear yard setback variance request before the Board this evening. However, staff does note that the existing dwelling was originally constructed with only a \pm 25' rear yard setback.

Mr. Tom Cline with Buschur's Home Improvement, 5784 Poe Avenue whom represented Mr. Jackson who was present.

Chairman Poff asked if the material was going to be vinyl or wood. Mr. Cline stated that on the enclosure would be vinyl which was insulated three inch skim that would go around the perimeter.

Chairman Poff stated that down the street was a similar enclosure and asked Mr. Cline if this enclosure would resemble that. Mr. Cline stated yes that it would resemble it, but smaller.

Mr. Borchers asked if there would be any utilities inside the enclosure. Mr. Cline stated that no that this was just a three season enclosure.

Mr. Vath stated that a building permit through Miami County would be required.

Mr. Berrett questioned the distance between the enclosure and the shed. Mr. Cline stated that it was 7' 7".

Mr. Mike Jackson approached the dais and stated that there was already a patio present that was to be removed. The reason the patio has to come up was because it was sunk into the ground, the footprint would not be change.

Chairman Poff asked for further discussion. There being none Mr. Borchers **moved to grant a variance of 14' to the required rear yard setback of 30' noted in Code §154.045(C)(2)(b)(1) in conjunction with the construction of an attached patio enclosure located at 655 Thornburg Place**, seconded by Mr. Berrett. **Motion carried.** Ayes: Borchers, Berrett, Wall, and Poff. Nays: None.

Mr. Borchers **moved to grant a variance of 2' 5" to the required**

setback of 10' noted in Code §154.059(D)(4) regarding setbacks between detached an accessory building and the primary dwelling situated on the same lot for the construction of an attached patio enclosure located at 655 Thornburg Place, seconded by Mr. Berrett. **Motion carried.** Ayes: Borchers, Berrett, Poff, and Wall. Nays: None.

Old Business

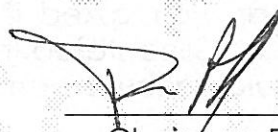
There was none.

Miscellaneous


There was none.

Adjournment

There being no further business, Mr. Berrett **moved to adjourn the meeting**, seconded by Mr. Poff and unanimously approved. **Motion carried.** Chairman Poff declared the meeting adjourned at 7:51 p.m.



Chairman Ron Poff

Attest: 

Mrs. Kimberly Patterson, Board Secretary